

March 14, 2002

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FEDERAL LEGISLATIVE UPDATE

Federal Fiscal Year (FFY) 2003 Budget Resolution: Last night, the Republican-controlled House Budget Committee adopted its spending blueprint for FFY 2003. The vote on the resolution was along party lines (23-18) and provides the largest increase (13 percent) in defense spending in 20 years while limiting spending increases in the rest of the budget to 1.1 percent growth before inflation. The budget projects a \$45.6 billion deficit in FFY 2003 and would use \$225 billion of the Social Security surplus to pay for other programs.

Within the resolution's broad outlines are some assumptions for domestic spending. The resolution would fully fund the President's \$37.7 billion homeland security budget request, which includes \$3.5 billion first responder grants to states and localities and \$4.3 billion for bioterrorism activities. It also would fully fund the Land and Water Conservation Fund at \$911 million.

The budget resolution may be considered on the House floor next week. It sets non-binding FFY 2003 spending and revenue targets to guide Congressional action, and does not go to the President for his signature. Given the split in control of the Senate and House, there is a strong likelihood that no final budget resolution will be adopted this year, leaving the authorizing and appropriations committees to craft bills without an agreed-upon blueprint.

Highway Funding: This week, the bipartisan membership of the House Budget, Appropriations, and Transportation Committees agreed to restore \$4.4 billion in highway funds which would be cut under the President's proposed FFY 2003 Budget. This restoration is included in the House budget resolution, subject to subsequent action by the authorizing and appropriations committees. The restoration would bring funding to the full level authorized under current law.

Medicaid Upper Payment Limit (UPL) Litigation: Last week, a number of provider groups, including the National Association of Public Hospitals and Health Systems (NAPH) and the American Hospital Association (AHA), filed suit against the U.S. Department of Health and Human Services (HHS) to halt the implementation of the final rule placing further restrictions on the Medicaid Upper Payment (UPL). The suit seeks an injunction based on a number of arguments, many of which are focused on alleged violations of the Federal Administrative Procedures Act.

The plaintiffs argue that the rule will result in cuts of \$27 billion over ten years to hospitals serving the poor. In general, the rule reduces the aggregate amount of Medicaid payments to non-state public hospitals in each state from 150 percent to 100 percent of what would be paid under Medicare.

As part of the suit, the plaintiffs argued that the rule's effective date of March 19, 2002 did not provide Congress the 60 days it has to review the rule as proscribed under the Congressional Review Act. Washington Advocate Susan White has advised that HHS has agreed to delay the effective date until April 15, 2002. The suit was filed in the U.S. District Court for the Eastern District of Arkansas in Little Rock, Arkansas.

Economic Stimulus: Last week, the President signed into law (P.L. 107-147) a scaled-down version of an economic stimulus package. The legislation focused on renewing a number of expiring business tax cuts and extending unemployment benefits to assist individuals who became unemployed as a result of the terrorist attacks of September 11th. The measure did not contain any health-related matters, such as a moratorium on the Medicaid Upper Payment Limit rule or health insurance tax credits for the uninsured. Those matters may be considered later this session.

Immigration: The House passed legislation (H. Res. 365) which inserted a border security bill (H.R. 3325) into the Senate-passed version of H.R. 1885, which provides for a short-term extension of Section 245(i) of the Immigration and Nationality Act. Section 245(i) allows certain undocumented immigrants to remain in the country while they apply for lawful permanent resident status if they pay a \$1,000 penalty fee. This section

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expired in 1997, but was renewed through April 30, 2001 under the Legal Immigration and Family Equity Act (LIFE Act), which was enacted in December 2000.

Supported by the President, H.R. 1885 extends Section 245(i) for 120 days after the issuance of a final rule to implement it or through November 30, 2002, whichever is earlier. As amended, eligibility would be limited only to those undocumented immigrants who were in the U.S. as of December 21, 2000 and who were eligible for permanent resident status based on a family relationship or job offer as of August 15, 2001.

The bill faces an uncertain future in the Senate because Senator Byrd, (D-W.Va.), has said he will object to any unanimous consent requests to consider the border security bill unless amendments are allowed. To date, Majority Leader Tom Daschle (D-SD) has not set aside floor time for the measure. Other Democrats have argued that the 245(i) provision attached to the House border security bill is too narrow and should be made permanent.

We will continue to keep you advised of any new developments.

DEJ:GK
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